



## PENSION BENEFIT GUARANTY CORPORATION

### Privacy Act of 1974; Systems of Records

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Notice of modified system of records.

**SUMMARY:** Pursuant to the Privacy Act of 1974, the Pension Benefit Guaranty Corporation (PBGC) is proposing changes to a system of records notice (SORN). PBGC is updating the Official Address to reflect PBGC's new headquarters location, adding a routine use and modifying other routine uses, updating categories of records, sources of records, and other administrative changes.

**DATES:** The new routine use and modifications of other routine uses described herein will become effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*], without further notice, unless comments result in a contrary determination and a notice is published to that effect. Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*] to be assured of consideration.

**ADDRESSES:** You may submit written comments to PBGC by any of the following methods:

- *Federal eRulemaking Portal:* Follow the website instructions for submitting comments at <http://www.regulations.gov>.
- *E-mail:* [reg.comments@pbgc.gov](mailto:reg.comments@pbgc.gov). Refer to SORN in the subject line.
- *Mail or Hand Delivery:* Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 445 12th Street SW, Washington, DC, 20024-2101.

Commenters are strongly encouraged to submit public comments electronically. PBGC expects to have limited personnel available to process public comments that are submitted on

paper through U.S. mail. Until further notice, any comments submitted on paper will be considered to the extent practicable.

All submissions must include the agency's name (Pension Benefit Guaranty Corporation, or PBGC) and reference this notice. Comments received will be posted without change to PBGC's website, <http://www.pbgc.gov>, including any personal information provided. Do not submit comments that include any personally identifiable information or confidential business information. Copies of comments may also be obtained by writing to Disclosure Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, *445 12th Street SW, Washington, DC, 20024-2101*, or calling 202-326-4040 during normal business hours. (If you are deaf, or hard of hearing or have a speech disability, please dial 7-1-1 to access telecommunications relay services.)

**FOR FURTHER INFORMATION CONTACT:** Shawn Hartley, Chief Privacy Officer, Pension Benefit Guaranty Corporation, Office of the General Counsel, *445 12th Street SW, Washington, DC, 20024-2101*, 202-229-6321. For access to any of PBGC's systems of records, contact D. Camilla Perry, Disclosure Officer, Office of the General Counsel, Disclosure Division, *445 12th Street SW, Washington, DC, 20024-2101*, or by calling 202-229-4040, or go to <https://www.pbgc.gov/about/policies/pg/privacy-at-pbgc/system-of-records-notice>. If you are deaf or hard of hearing or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

**SUPPLEMENTARY INFORMATION:**

- (1) PBGC is proposing to update the Official Addresses, the citation to the Contesting Records Procedures section, and to clarify the Policies and Practices for Retention and Disposal of Records section.**

PBGC is updating the Official Address to reflect PBGC's new headquarters location. When PBGC reviewed and revised its system of records notices in 2018, it inadvertently dropped the citation to its regulations that explain the process to contest information contained in records

maintained by PBGC. PBGC is adding the citation to 29 CFR 4902.5 to the Contesting Records Procedures section of this SORN. Additionally, upon review, it was noticed that the Routine Uses section contained a typographical error. PBGC is amending the Privacy Act citation, changing it from 5 U.S.C. 522a(b) to 5 U.S.C. 552a(b).

PBGC is also clarifying the procedures outlined in Policies and Practices for Retention and Disposal of Records in accordance with NARA (44 U.S.C. 3301, *et seq.*). Finally, PBGC is updating the citation to the last time PBGC published this SORN.

**(2) PBGC is proposing to amend the purpose of the system, categories of records contained in the system, amend the record source categories, amend one routine use, and add one routine use to PBGC– 6: Plan Participant and Beneficiary Data.**

PBGC is proposing the following revisions to PBGC – 6: Plan Participant and Beneficiary Data (last published at 83 FR 6256 (February 13, 2018)): Amend the purpose of the system of records; categories of records contained in the system; amend the record source categories; amend one routine use; and add one new routine use.

PBGC is proposing to amend the purpose of the system of records to include “providing routine customer service; verifying the identity of participants, alternate payees, beneficiaries, spouses and authorized agents,” which will permit PBGC to use the information contained within the system of records to verify an individual’s identity to determine whether they are authorized to access or modify records within the system or records.

PBGC is proposing to amend the categories of records contained in the system of records by adding “tax identification numbers” and clarifying that debts owed are those debts owed to the Federal Government.

PBGC is proposing the amendment of Routine Use 17, which currently permits disclosure to third parties that provide locator services when PBGC has no address on file or mail

has been returned as undeliverable. After review of the routine use and agency practices, PBGC is clarifying that other Federal agencies may be one of the third parties that provide locator services to PBGC and that PBGC may need to use locator services when it is unable to make benefit payments because the agency is unable to confirm that an address is current or correct. The amended portions of Routine Use 17 will indicate that “other Federal agencies” may provide locator services and that PBGC may use these services if it has been “unable to make benefit payments to those participants, beneficiaries, and alternate payees because the address on file is unable to be confirmed as current or correct.”

PBGC is proposing the addition of a Routine Use 20, which will read, “Names and addresses may be disclosed to licensees of the United States Postal Service (USPS) to obtain current addresses under the USPS’s National Change of Address Linkage System (NCOA). Disclosure will be made only under a contract that binds the licensee of the USPS and its employees to the civil and criminal penalties of the Privacy Act. The contract must provide that the records disclosed by PBGC are used exclusively for updating addresses under NCOA and must be returned to PBGC or destroyed when the process is completed. The records will be exchanged electronically in an encrypted format.” This routine use is necessary as it allows PBGC to use the USPS records to locate participants and beneficiaries it might not otherwise be able to locate.

Pursuant to 5 U.S.C. 552a(e)(11), interested persons are invited to submit written comments on the proposed changes described in this notice. A report has been sent to Congress and the Office of Management and Budget for their evaluation.

Issued in Washington, DC, by

**Gordon Hartogensis,**  
*Director,*  
*Pension Benefit Guaranty Corporation.*

**SYSTEM NAME AND NUMBER:**

PBGC-6: Plan Participant and Beneficiary Data — PBGC

**SECURITY CLASSIFICATION:**

Unclassified

**SYSTEM LOCATION:**

Pension Benefit Guaranty Corporation (PBGC), *445 12th Street SW, Washington, DC, 20024-2101*, and/or PBGC Field Offices (Field Benefit Administration), plan administrator worksites, and paying agent worksites. (Records may be kept at an additional location as backup for continuity of operations.)

**SYSTEM MANAGER(S) AND ADDRESS:**

Chief of Benefits Administration, Office of Benefits Administration, PBGC, *445 12th Street SW, Washington, DC, 20024-2101*.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

29 U.S.C. 1055, 1056(d)(3), 1302, 1321, 1341, 1342, and 1350; 26 U.S.C. 6103; 44 U.S.C. 3101; 5 U.S.C. 301.

**PURPOSE(S) OF THE SYSTEM:**

This system of records is maintained for use in determining whether participants, alternate payees, beneficiaries, spouses and domestic partners are eligible for benefits under plans covered by *the Employee Retirement Income Security Act (ERISA)*; determining supplemental payments to be paid to those persons by a party other than PBGC; determining the amounts of benefits to be paid, making benefit payments; *providing routine customer service, verifying the identity of participants, alternate payees, beneficiaries, spouses and authorized agents*; collecting benefit overpayments; and complying with statutory and regulatory mandates.

Names, addresses, and telephone numbers are used to survey customers to measure their satisfaction with PBGC's benefit payment services and to track (for follow-up) those who do not respond to surveys.

*De-identified, aggregated* information from this system may be used for research into, and statistical information about, benefit determinations for actuaries and publications.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Participants, alternate payees, beneficiaries, spouses and domestic partners in terminated and non-terminated retirement plans covered by ERISA, and other individuals who contact PBGC regarding benefits they may be owed from PBGC.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Names; addresses; telephone numbers; e-mail addresses; gender; social security numbers and other Social Security Administration information; *tax identification numbers*; dates of birth and death; dates of hire, termination, and retirement; salary; employment history; marital status; domestic relations orders; time of plan participation; eligibility status; pay status; benefit data, including records of benefit payments made to participants, alternate payees, and beneficiaries in terminating and terminated retirement plans; powers of attorney; insurance information where

plan benefits are provided by private insurers; medical records; disability information; retirement plan names and numbers; correspondence; initial and final PBGC determinations (see, 29 CFR 4003.21 and 4003.59); and other records relating to debts owed to *the Federal Government*.

#### **RECORD SOURCE CATEGORIES:**

Plan administrators; participants, spouses, alternate payees, beneficiaries, and other individuals who contact PBGC regarding benefits they may be owed from PBGC; *collectively bargained labor organizations; insurance companies; locator services (such as credit reporting agencies and debt collection firms or agencies, to locate participants, beneficiaries, and alternate payees)*; agents listed on release forms or power of attorneys; PBGC Field Office; the Social Security Administration (SSA); the Federal Aviation Administration (FAA); *and other Federal agencies*.

#### **ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Information about covered individuals may be disclosed without consent as permitted by the Privacy Act of 1974, 5 U.S.C. 552a(b), and:

1. General Routine Uses G1, G2, G4 through G7, *and* G9 through G14, apply to this system of records (see Prefatory Statement of General Routine Uses at 83 FR 6247, 6252 (*February 13, 2018*)).
2. A record from this system of records may be disclosed to third parties, such as banks, insurance companies, *collectively bargained labor organizations*, or trustees:
  - a. To enable these third parties to make or determine benefit payments, or
  - b. To report to the Internal Revenue Service (IRS) the amounts of benefits paid (or required to be paid) and taxes withheld.
3. A record from this system may be disclosed, in furtherance of proceedings under Title IV of ERISA, to a contributing sponsor (or other employer who maintained the plan), including any predecessor or successor, and any member of the same control group.
4. A record from this system may be disclosed, upon request, for a purpose authorized under ERISA, to an official of a labor organization recognized as the current or former collective bargaining representative of the individual about whom a request is made.
5. Payees' names, addresses, telephone numbers, and information related to how PBGC determined that a debt was owed by such payees to PBGC may be disclosed to the Department of the Treasury or a debt collection agency or to collect a claim. Disclosure to a debt collection agency may be made only under a contract issued by the Federal government that binds any such contractor or employee of such contractor to the penalties of the Privacy Act. The information so disclosed will be used exclusively pursuant to the terms and conditions of such contract and will be used solely for the purposes prescribed therein. The contract must provide that the information so disclosed will be returned at the conclusion of the debt collection effort.
6. The name and social security number of a participant employed or formerly employed as a pilot by a commercial airline may be disclosed to the Federal Aviation Administration to obtain information relevant to the participant's eligibility or continued eligibility for disability benefits.

7. The name of a participant's plan, the actual or estimated amount of a participant's benefit under ERISA, the form(s) in which the benefit is payable, and whether the participant is currently receiving benefit payments under the plan or (if not) the earliest date(s) such payments could commence may be disclosed to the participant's spouse, domestic partner, former spouse, former domestic partner, child, or other dependent solely to obtain a qualified domestic relations order under 29 U.S.C. 1056(d) and 26 U.S.C. 414(p). PBGC will disclose the information only upon the receipt of a written request by a prospective alternate payee, or the alternate payee's representative, that describes the requester's relationship to the participant and states that the information will be used solely to obtain a qualified domestic relations order under state domestic relations law. PBGC will notify the participant of any information disclosed to a prospective alternate payee or their representative under this routine use.

8. Information from an initial benefit determination under 29 CFR 4003 (excluding the participant's address, telephone number, social security number, and any sensitive medical information) may be disclosed to an alternate payee, or their representative, under a qualified domestic relations order issued pursuant to 29 U.S.C. 1056(d) and 26 U.S.C. 414, et seq., to explain how PBGC determined the benefit due the alternate payee so that the alternate payee can pursue an administrative appeal of the benefit determination under 29 CFR 4003, et seq. PBGC will notify the participant of the information disclosed to an alternate payee or their representative under this routine use.

9. Information from an alternate payee's initial benefit determination under 29 CFR 4003.1 (excluding the alternate payee's address, telephone number, social security number, and any sensitive medical information) may be disclosed to a participant, or their representative, under a qualified domestic relations order issued pursuant to 29 U.S.C. 1056(d) and 26 U.S.C. 414(p) to explain how PBGC determined the benefit due to the alternate payee so that the participant may pursue an administrative appeal of the benefit determination under 29 CFR 4003, et seq. PBGC will notify the alternate payee of the information disclosed to a participant or their representative under this routine use.

10. Information used in calculating the benefit, or share of the benefit, of a participant or alternate payee (excluding the participant's or alternate payee's address, telephone number, social security number, and any sensitive medical information) may be disclosed to a participant or an alternate payee, or their representative, when (a) a qualified domestic relations order issued pursuant to 29 U.S.C. 1056(d) and 26 U.S.C. 414(p) affects the calculation of the benefit, or share of the benefit, of the participant or alternate payee; and (b) the information is needed to explain to the participant or alternate payee how PBGC calculated the benefit, or share of the benefit, of the participant or alternate payee. PBGC will notify the participant or the alternate payee, or their representative, as appropriate, of the information disclosed to the participant or the alternate payee, or their representative, under this routine use.

11. The names, addresses, social security numbers, dates of birth, and the pension plan name and number of eligible PBGC pension recipients may be disclosed to the Department of the Treasury and the Department of Labor to implement the income tax credit for health insurance costs under 26 U.S.C. 35 and the program for advance payment of the tax credit under 26 U.S.C. 7527.

12. Names, addresses, social security numbers, and dates of birth of eligible PBGC pension recipients residing in a particular state may be disclosed to the state's workforce agency if the agency received a National Dislocated Worker Grant from the Department of Labor under the Workforce Innovation and Opportunity Act of 2014 to provide assistance and support services for state residents under 29 U.S.C. 3225.

13. Payees' names, social security numbers, and dates of birth may be provided to the Department of the Treasury's Bureau of the Fiscal Service, the Social Security Administration, the Internal Revenue Service, or a third party with whom PBGC has a contractual relationship, to verify payees' eligibility to receive payments.

14. Names and social security numbers of participants and beneficiaries may be provided to the Department of the Treasury, the Department of the Treasury's financial agent, and the Federal Reserve Bank for the purpose of learning which of PBGC's check payees have electronic debit card accounts used for the electronic deposit of Federal benefit payments, for establishing electronic debit card accounts for eligible participants and beneficiaries, and for administering payments to participants and beneficiaries who have selected this method of payment.

15. Information relating to revocation of a power of attorney may be disclosed to the former agent that was named in the revoked power of attorney.

16. With the exception of third-party social security numbers, all beneficiary information contained in the participant file (such as: names, addresses, phone numbers, email addresses and dates of birth) provided by the subject of the record may be disclosed to the subject of the record, upon written request to the Disclosure Officer in accordance with the Record Access Procedure outlined below.

17. Names, social security numbers, last known addresses, dates of birth and death, amount of benefit, plan name, plan EIN/PIN number, name of plan sponsor, and the city and state of the plan sponsor of plan participants and beneficiaries may be disclosed to third parties, with whom PBGC has a contractual relationship, that provide locator services (including credit reporting agencies, debt collection firms, *or other Federal agencies*) to locate participants and beneficiaries. Such information will be disclosed only if PBGC has no address for an individual, if mail sent to the individual at the last known address is returned as undeliverable, *if PBGC has been unable to make benefit payments to those participants, beneficiaries, and alternate payees because the address on file is unable to be confirmed as current or correct or if PBGC has been otherwise unsuccessful at contacting the individual.* Disclosure may be made only under a contract that subjects the firm or agency providing the service and its employees to the *civil and criminal penalties of the Privacy Act.* The information so disclosed will be used exclusively pursuant to the terms and conditions of such contract and will be used solely for the purposes prescribed therein. The contract shall provide that the information so disclosed must be returned or destroyed at the conclusion of the locating effort.

18. Names, social security numbers, last known addresses, dates of birth and death, employment history, and pay status of individuals covered by legal settlement agreements involving PBGC may be disclosed to entities covered by or created under those agreements.

19. A record from this system may be disclosed to a consumer reporting agency in accordance with 31 U.S.C. 3711(e).

20. *Names and addresses may be disclosed to licensees of the United States Postal Service (USPS) to obtain current addresses under the USPS's National Change of Address Linkage System (NCOA). Disclosure may be made only under a contract that binds the licensee of the USPS and its employees to the civil and criminal penalties of the Privacy Act. The contract must provide that the records disclosed by PBGC will be used exclusively for updating addresses under NCOA and must be returned to PBGC or destroyed when the process is completed. The records will be exchanged electronically in an encrypted format.*



## **POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

Records are maintained manually in paper and/or electronic form (including computer databases or discs). Records may also be maintained on back-up tapes, or on a PBGC or a contractor-hosted network.

## **POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

Records are retrieved by any one or more of the following: name; social security number; customer identification number; address; date of birth; or date of death.

## **POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

Records are maintained and destroyed in accordance with the National Archives and Record Administration's (NARA) Basic Laws and Authorities (44 U.S.C. 3301, et seq.) or a PBGC records disposition schedule approved by NARA. *Records existing on paper are destroyed beyond recognition. Records existing on computer storage media are destroyed according to the applicable PBGC media practice for participant systems and will be maintained in accordance with PBGC Records Schedule Item 2.1: Plan, Participant, and Insurance Records.*

## **ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

PBGC has established security and privacy protocols that meet the required security and privacy standards issued by the National Institute of Standards and Technology (NIST). Records are maintained in a secure, password protected electronic system that utilizes security hardware and software to include multiple firewalls, active intruder detection, and role-based access controls. PBGC has adopted appropriate administrative, technical, and physical controls in accordance with PBGC's security program to protect the confidentiality, integrity, and availability of the information, and to ensure that records are not disclosed to or accessed by unauthorized individuals.

Electronic records are stored on computer networks, which may include cloud-based systems, and protected by controlled access with Personal Identity Verification (PIV) cards, assigning user accounts to individuals needing access to the records and by passwords set by authorized users that must be changed periodically.

Paper and electronic records that contain *Federal Tax Information* are stored under procedures that meet IRS safeguarding standards, as reflected in IRS Publication 1075, and are kept in file folders in areas of restricted access that are locked after office hours.

## **RECORD ACCESS PROCEDURES:**

Individuals, or third parties with written authorization from the individual, wishing to request access to their records in accordance with 29 CFR 4902.4 or to amend records pertaining to themselves in accordance with 29 CFR 4902.5, should submit a written request to the Disclosure Officer, PBGC, 445 12th Street SW, Washington, DC, 20024-2101, providing their name, address, date of birth, and verification of their identity in accordance with 29 CFR 4902.3(c).

## **CONTESTING RECORD PROCEDURES:**

Individuals, or third parties with written authorization from the individual, wishing to amend their records must submit a written request, *in accordance with 29 CFR 4902.5*, identifying the

information they wish to correct in their file, in addition to following the requirements of the Record Access Procedure above.

**NOTIFICATION PROCEDURES:**

Individuals, or third parties with written authorization from the individual, wishing to learn whether this system of records contains information about them should submit a written request to the Disclosure Officer, PBGC, *445 12th Street SW, Washington, DC, 20024-2101*, providing their name, address, date of birth, and verification of their identity in accordance with 29 CFR 4902.3(c).

**EXEMPTIONS PROMULGATED FOR THE SYSTEM:**

None.

**HISTORY:**

PBGC: 6, Plan Participant and Beneficiary Data (last published at *83 FR 6247, 6256 (February 13, 2018)*).

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